

Advisory Action

Application No.

09/868,880

Applicant(s)

BEVERIDGE ET AL.

Examiner

Jeremy R. Pierce

Art Unit

1771

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 12 October 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
- ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☐ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

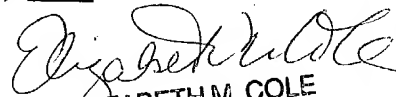
Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: _____.

Claim(s) withdrawn from consideration: _____.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____.


ELIZABETH M. COLE
PRIMARY EXAMINER

Continuation of 2. NOTE: New claim 25 recites the use of amino modified silicone materials as a textile-treating agent. Amino modified silicone materials were not previously considered by the Examiner, so the Amendment raises a new issue that requires further search and consideration.

Continuation of 5. does NOT place the application in condition for allowance because: Applicant argues that there is no motivation to combine Homonoff with with Pike and that the references teach away from each other because the Homonoff references teaches that a hydrophobic web material is desirable. However, Homonoff also desires "absorbency coupled with toughness" in the web (page 4, lines 44-51). Therefore, it would be obvious to use the teachings of Pike in the Homonoff reference. Applicant argues that Homonoff only desires using substantially continuous filaments and that discontinuous fibers would be suitable for the intended use of Homonoff. However, a person of ordinary skill in the art would recognize that staple fibers webs are equally useful to spunbonded fabrics, as taught by Pike. Additionally, Homonoff teaches using tissue webs made from conventional papermaking techniques (page 4, lines 23-43). Fabrics formed from paper making techniques comprise discontinuous fibers. Applicant argues that Zotto teach forming a film over the fibers of the fabric to which it is applied. However, Applicant has not proven that the material of Zotto would not meet the claim limitations when applied to the fabric of Homonoff. The Examiner has set forth a reasonable basis because the references teach similar materials compared to the claimed subject matter. The burden is upon Applicant to prove otherwise. While Zotto disclose that a film is formed, Zotto does not disclose the film has a structure which would render the claimed elongation characteristics impossible. For instance, Zotto does not require the film be continuous.